

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

May 16 and 17, 2006

The meeting was called to order at 9:10 a.m. at the Millennium Maxwell House Nashville, 2025 Metrocenter Blvd., Nashville, Tennessee 37228, by President Dr. David Cunningham. Other members present were: Drs. George Eckles, Michael Zanolli, Keith Lovelady, Mitchell Mutter, Charles White, Sr., Subhi Ali, Barbara Engelhardt, Allen Edmonson, Mr. Mark Brown and Ms. Mary Johnson. Absent board member was Ms. Nina Yeiser. Staff present included: Rosemarie Otto, Executive Director, Dr. Larry Arnold, Medical Director, Marsha Arnold, Unit Manager, Sandra Powell, Board Administrator and Robert Kraemer, Advisory Attorney.

Minutes

Minutes from the March 14 and 15, 2006 meeting and May 3, 2006 summary suspension were reviewed. Dr. White made a motion to accept the minutes and Ms. Johnson seconded the motion. The motion carried.

Ratification of Licenses

New, reinstated, failed to renew and voluntarily retired licenses for Medical Doctors, Medical X-Ray Operators, Athletic Trainers, Physician Assistants, Committee on Clinical Perfusionists and Acupuncture Committee were reviewed. Dr. Mutter made a motion to ratify the approval of licenses and Dr. White seconded the motion. The motion carried.

New Applicant Interviews

Charles William Ball, Jr., MD-Dr. Ball is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Ball's application for the Board. Dr. Ball has been before the Arkansas Board on several occasions. Dr. Cunningham asked Dr. Ball to explain the reason why he has had so many appearances before the Board. Dr. Ball stated that his former wife suffered from migraine problems for which he would give her injections of Demerol or Stadol. Dr. Ball stated he did not know that it was a violation of the Arkansas Medical Practice Act. Dr. Ball explained that he was instructed to get in the

Physician Health Program for five years which he successfully completed without incident. Dr. Edmonson asked Dr. Ball if he had drug testing during the five years and supervision by Alcohol Anonymous (AA). Dr. Ball explained that it was required for five years to go to Narcotics Anonymous (NA) or AA meetings. He went to AA meetings because it was more convenient and easier to find AA meetings at least twice a week and provide documentation of that. After further discussions, Dr. Edmonson made a motion to grant a license and Ms. Johnson seconded the motion. Dr. Ali made an amendment to the motion to add five years advocacy with the Tennessee Medical Foundation. Dr. Engelhardt made a counter-amendment to grant license contingent on phone calls to the Arkansas Board by Dr. Gray. Dr. Lovelady seconded the amendment. Mr. Kraemer's suggestion to the Board, from a legal standpoint, was to obtain documents from Arkansas then determine whether Dr. Ball needs to go to TMF or not. If he does, then there needs to be a determination whether it is for an evaluation or whether it is for a five year contract. Dr. Ali withdrew his initial amendment and made a motion that upon sufficient documents from Arkansas to be reviewed by Dr. Gray and Dr. Arnold, a license will be granted to Dr. Ball. Ms. Johnson seconded the motion. The motion carried.

Stuart H. Fox, MD-Dr. Fox is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Fox's application for the Board. Dr. Fox informed the Board that he has obtained an administrative position with Department of Health in Knoxville, Tennessee that stated he is the medical director of epidemiology, emergency preparedness and communicable disease. In reviewing Dr. Fox's file, Dr. Arnold stated that Dr. Fox has had a number of malpractice issues. Dr. Fox's license was disciplined by the West Virginia Board and put on three years probation. The probation was lifted at one time allowing Dr. Fox to take the Boards and then the probation was reinstated. Dr. Arnold stated his recommendation based on the review of the entire file was to deny licensure. The Board asked several questions to Dr. Fox. Dr. White made a motion to restrict the license. Dr. Ali made an amendment to the motion by restricting the license to non-clinical practice of medicine in the State of Tennessee. Dr. Engelhardt seconded the motion. Dr. Cunningham stated that the motion and amendments still stood and asked Dr. Fox if he would like for the board to continue with the vote or would he like to withdraw his application, talk to his supervisors and see if a license restricted to non-clinical practice would be sufficient. Dr. Fox informed the Board that he would like the vote to continue. Dr. Cunningham asked for a show of hands in favor of the motion. Dr. Zanolli, Dr. White, Dr. Cunningham and Mr. Brown opposed. All other members were present and voted in favor of the motion. The motion passed by a majority.

Thomas John Schroepfel, MD-Dr. Schroepfel is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Schroepfel's application for the Board. Dr. Arnold stated that Dr. Schroepfel's license was disciplined by the Wisconsin Board in October, 2004 for malpractice issues. Dr. Schroepfel informed the Board that he was currently in Memphis, Tennessee training in trauma and critical care surgery. After further questions, Dr. Eckles made a motion to grant Dr. Schroepfel a license and Dr. Mutter seconded the motion. The motion passed unopposed.

Dexter Wayne Shurney, MD-Dr. Shurney is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Shurney's application for the Board. Dr. Arnold explained that Dr. Shurney has not practiced for fifteen or twenty years and was presently working for one of the managed care companies. Dr. Arnold informed the Board that Dr. Shurney would only need an administrative license to do the job he is presently doing. Dr. Shurney stated he has not had any patient contact since the early 1990s. The Board discussed, generally, the option of an administrative license. Mr. Kraemer explained to Dr. Shurney that the administrative license would not authorize the supervision of allied health professionals; that would require an unencumbered license. Dr. Shurney asked about performing those activities that fall under the supervision of allied health professionals. Mr. Kraemer suggested Dr. Shurney talk to the attorney for the company regarding the scope of services that he is providing in Tennessee. Dr. Ali stated that he felt Dr. Shurney would need to take the SPEX exam since he had not practiced in over fifteen years. Dr. Ali made a motion to grant Dr. Shurney a non-clinical, administrative license and Dr. Edmonson seconded the motion. Several questions were presented to Dr. Shurney regarding taking the SPEX exam. Dr. Cunningham asked Dr. Shurney if he would like to withdraw his application, go take the SPEX exam and reapply for a full license. Dr. Shurney agreed with the suggestion. Dr. Ali withdrew his original motion and made a new motion to offer Dr. Shurney a license to practice medicine in Tennessee contingent on him passing the SPEX exam and submitting that documentation to the Board's Medical Director. Mr. Brown seconded the motion. Dr. Shurney stated he did not know when he would be able to sit for the exam and withdrew his application.

Carla G. Lyn-Boswell, MD-Dr. Lyn-Boswell had previously applied for a license to practice medicine in Tennessee. Dr. Lyn-Boswell's application was denied because the medical school she attended in the Caribbean was thought to be on the exclusion list of the California Medical Board. After re-reviewing the information regarding the medical school that Dr. Lyn-Boswell attended, it was determined that the school was not on the exclusion list. The application file was brought back before the Board to rescind the previous ruling of denial of licensure. Dr. White made a motion to rescind the previous ruling and approve Dr. Lyn-Boswell for licensure. Dr. Zanolli seconded the motion. The motion passed.

Reinstatement Interviews

Malissa Gobbell Talbert, MD-Dr. Talbert is applying for reinstatement of her medical license. Dr. Arnold reviewed Dr. Talbert's application file for the Board. Dr. Talbert has not practiced medicine since 1995. Dr. Ali suggested that Dr. Talbert enroll in a mini residency program for one year and take the SPEX exam before she will be able to reinstate her medical license. Dr. Talbert was given the option to withdraw her application until such time as she completes a mini residency program and takes the SPEX exam. Dr. Talbert withdrew her reinstatement application.

Ratification of Denial of Licensure

Larry Hugh Lee, MD-Dr. Lee is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Lee's application file for the Board. Dr. Lee had coronary by-pass surgery in which he suffered some brain damage. Dr. Lee has been unable to assimilate information and utilize that information, so he has not been able to complete the continuing medical education hours required for licensure renewal. Dr. Arnold stated that Dr. Lee's physician submitted a letter outlining these conditions. Mr. Brown made a motion to accept Dr. Arnold's recommendation of denial and Dr. Edmonson seconded the motion. The motion carried.

Administrative Action

Ms. Rosemarie Otto reviewed the letter she sent Mr. Jerry Shaw, a physician assistant whose temporary permit to practice had expired. Ms. Otto's letter informed Mr. Shaw that his authorization to practice as a physician assistant had expired. Ms. Otto informed the Board that there has not been a response from Mr. Shaw. Ms. Johnson made a motion to ratify action taken and Dr. Ali seconded the motion. The motion carried.

Rule Action

Mr. Jerry Kosten, Rules Coordinator reviewed the roll call vote by the Committee for Physician Assistant and Orthopedic Physician Assistants regarding advertising. Mr. Kosten informed the Board that he received one comment.

Mr. Glen Alexander, Chairperson for the Committee for Physician Assistants addressed the Board regarding the wording of Rule 0880-3-.20(3) (f) and the remote services language. Mr. Alexander stated the confidence of the public could be compromised if Physician Assistants were required to notify patients that a physician was not available. The Board directed several questions to Mr. Alexander regarding advertising rule.

Dr. Ali made a motion to deny the approval by roll call vote the Committee for Physician Assistants took regarding advertising and Ms. Johnson seconded the motion. Dr. Zanolli volunteered to be the liaison person to help work with the Physician Assistant Committee on the advertising rules.

Mr. Kosten reviewed the roll call vote by the Acupuncture Committee regarding screening panels, advertising, use of titles, reconsiderations and stays. Dr. Zanolli made a motion to adopt the rule regarding the action taken by the Acupuncture Committee and Dr. Edmonson seconded the motion. After a roll call vote, the rule was adopted by unanimous vote.

Discussion

Dr. Kelly L. Moore, MD, MPH, Medical Director, State Immunization Program gave a presentation regarding Pandemic Planning for Avian Flu. Dr. Moore informed the board that the impact for a future pandemic will depend upon how we prepare ourselves at every level. The Board asked various questions concerning bird flu.

Dr. Larry Arnold reviewed the Universal Do Not Resuscitate Order (POST). The Board reviewed the forms presented. Ms. Judy Eads, Assistant Commissioner for the Department of Health informed the Board the forms were available on the internet. Ms. Eads went on to say that the form could be a device for communication with patients and family members. Dr. White made a motion to endorse use of the forms and Dr. Zanolli seconded the motion. The motion passed unopposed.

Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation addressed the Board regarding the issues pertaining to the term “advocacy”. Dr. Gray suggested that the Board not use the word “advocacy” when directing physicians to the Tennessee Medical Foundation. The Board also discussed the annual statistics and financial contributions made to the Tennessee Medical Foundation.

Ms. Otto reviewed the annual report Public Citizen, a consumer advocacy group that annually ranks medical boards’ disciplinary actions. In 2005, the Tennessee Board of Medical Examiners’ ranking was 30, up from 41 in 2004.

Reports

Budget Report

The report was reviewed by the Board. Ms. Otto stated that the Board still has a positive surplus but there will be some assessments made to the budget for such things as the database upgrade, the move of the Board’s administrative offices and the Controlled Substance Monitoring Database.

Executive Director/Manager’s Report

Ms. Otto reviewed her report for the Board. Ms. Otto gave an update regarding Health Related Boards’ move to the new location. Ms. Otto informed the Board that the members that attended the Governor’s Tennessee Pandemic Influenza Readiness Seminar would receive travel reimbursement if they submitted claims in a timely manner.

Investigation Report

Ms. Lea Phelps, Disciplinary Coordinator reviewed the investigative report in the absence of Ms. Denise Moran.

Disciplinary Report

Ms. Lea Phelps, Disciplinary Coordinator reviewed her report for the Board.

OGC Report

Mr. Robert Kraemer reviewed his report for the Board. Mr. Kraemer reviewed the status of various rules and litigation cases pending in OGC. Mr. Kraemer handed out an amendment to his report regarding Public Chapters 531, 558, 560, 564, 585 and 620.

“Noteworthy” section of the internet

The Board did not designate anything for the “noteworthy” section of the internet.

Disciplinary Action

Agreed Order

Bruce E. January, MD-Dr. January was neither present nor represented by legal counsel. Ms. Schean Belton, on behalf of Laurie Doty, represented the State. The proposed Agreed Order was handed out to the Board for review. Dr. January is charged with violating TCA 63-6-214 (b) (2). Dr. January entered into an Agreed Order ratified by the Board on July 21, 2004 due to an out of state action in Georgia. Ms. Belton informed the Board that Dr. January was informed on or about October 27, 2004 via certified mail that he was not in compliance with the Agreed Order and had failed to pay his civil penalties and court cost. The proposed Agreed Order stated that Dr. January must pay one Type A Civil penalty in the amount of one thousand dollars (\$1,000.00), for a total amount of one thousand dollars (\$1,000.00) in civil penalties, representing one (1) violation of the Tennessee Medical Practice Act. The civil penalty shall be due and payable thirty (30) days after the effective date of the Order. Dr. White made a motion to accept the proposed Agreed Order and Dr. Edmonson seconded the motion. The motion passed unopposed.

Ira Saposnik, MD-Dr. Saposnik was not present but represented by legal counsel, Mr. Dan Warlick. Ms. Rhonda Hooks represented the State. The proposed Agreed Order was handed to the Board for review. Dr. Saposnik is charged with violating TCA 63-6-214(b) (1) and TCA 63-6-214(b) (10). On or about March 5, 2003, before the United States District Court, Middle District of Tennessee, Dr. Saposnik pled guilty to Conspiracy to Distribute Schedule III and IV Controlled Substances. On or about June 6, 2003, the Court entered a judgment against Dr. Saposnik and sentenced him to three (3) years probation, including, but not limited to the terms and conditions of the judgment. Ms. Hooks informed the Board that Dr. Saposnik has a severe case of multiple sclerosis. Ms. Hooks stated that she, along with Dr. Saposnik and his attorney agreed to the proposed Order wherein Dr. Saposnik agreed to surrender his medical license immediately. Ms. Hooks stated that an amendment was made to include that Dr. Saposnik cannot reapply for a license within a six-month period after the Board has approved the Agreed Order. Mr. Warlick explained to the Board the physical state of Dr.

Saposnik and the reason for the length of time it took before it was brought before the Board. Dr. Mutter made a motion to accept the Agreed Order with an amendment that Dr. Saposnik cannot apply for a license for twelve months. Mr. Kraemer stated that the Board can either accept or reject the Order. Dr. Mutter withdrew his motion and Dr. White seconded the motion. Mr. Brown made a motion to accept the proposed Agreed Order as amended by counsel and agreed upon by both counsels present. A second made by Dr. Zanolli. The motion passed unopposed.

Letter of Reprimand

Richard H. Daly, MD-Dr. Daly was neither present nor represented by legal counsel. Ms. Schean Belton represented the State. The Letter of Reprimand was handed to the Board for review. Dr. Edmonson recused himself. Dr. Daly is in violation of TCA 63-6-214(b) (1) and TCA 63-6-214(b) (4). The Letter of Reprimand stated that Dr. Daly was disciplined in Arizona for failure to choose an appropriate fixation device for a bone forearm fracture and for failure to appropriately affix the device. Ms. Belton asked the Board to accept the Letter of Reprimand and mirror the action of Arizona. Dr. White made a motion to accept the Letter of Reprimand and Dr. Mutter seconded the motion. The motion passed unopposed.

Consent Orders

Travis Roberson, MD-Dr. Roberson was neither present nor represented by legal counsel. Ms. Schean Belton represented the State. The proposed Consent Order was handed out to the Board for review. Dr. Roberson is charged with violating TCA 63-6-214(b) (18). Dr. Roberson has been in a state of failing health in the recent past and has attempted to maintain his medical practice after October, 2005. Dr. Roberson's physical ailments have caused him to be in a weakened condition. At times Dr. Roberson's physical condition and his pain have caused him to be unable to effectively perform his duties as a medical doctor. In order to maintain his medical practice during times when he was at home or in the hospital, Dr. Roberson would pre-sign prescriptions for his medical assistants to fill out and dispense. Ms. Belton informed the Board that Dr. Roberson is no longer practicing and has voluntarily retired his medical license. The proposed Consent Order stated that Dr. Roberson shall be and is hereby voluntarily retired. Dr. Roberson must pay the actual costs associated with the case. Dr. White made a motion to accept the Consent Order and Dr. Edmonson seconded the motion. The motion passed unopposed.

Barrington Nash, MD-Dr. Nash was neither present nor represented by legal counsel. Ms. Schean Belton represented the State. The proposed Consent Order was handed to the Board for review. Dr. Nash is charged with overprescribing controlled substances. Ms. Belton stated in working with Dr. Nash's attorney, Dr. Nash agreed to go to the

prescribing course, limit his patient practice to only those two counties and implement a new system to trace what he is prescribing. The Board asked several questions regarding Dr. Nash. Dr. Ali made a motion not to accept the proposed Consent Order and Dr. Mutter seconded the motion. The motion passed unopposed.

John M. Byrnes, MD-Dr. Byrnes was neither present nor represented by legal counsel. Ms. Brandi Bozarth represented the State. The proposed Consent Order was handed out to the Board for review. Dr. Eckles recused himself. Dr. Byrnes is charged with inappropriate prescribing of controlled substances. Ms. Bozarth informed the Board that Dr. Byrnes has the advocacy of the Tennessee Medical Foundation and explained the conditions in the proposed Consent Order. Dr. White made a motion to reject the order and Dr. Ali seconded the motion. Dr. Mutter opposed. The motion passed.

Audrey Smith, MD-Dr. Smith was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. The proposed Consent Order was handed out to the Board for review. Dr. Smith is charged with violating TCA 63-6-214 (b) (12). Dr. Smith prescribed a cough syrup containing a narcotic to her husband on nine (9) occasions. Dr. Smith prescribed her daughter a cough syrup containing a narcotic on seven (7) occasions between March 16, 2002 and March 14, 2004 and on ten (10) occasions between February 10, 2002 and May 7, 2004. Dr. Smith prescribed her sister and three (3) other members of her sister's family cough syrup containing a narcotic 25 times between June 3, 2003 and June 15, 2004. Dr. Smith did not maintain appropriate medical records for any of her family. The proposed Consent Order stated that Dr. Smith be placed on probation for a period of four (4) years. Dr. Smith must obtain and maintain advocacy with TMF for the duration of the probation, have TMF submit quarterly reports showing that she is in compliance with the requirements of her contract. Dr. Smith must submit proof that she has completed the Prescribing Controlled Substances course offered by the Center for Professional Excellence within six months of the ratification of the Order. Dr. Smith must submit proof she has completed 40 hours of continuing medical education in the areas of pain management or prescribing controlled substances every 2 years for the duration of the probationary period. Dr. Zanolli made a motion to accept the proposed Consent Order and Dr. Ali seconded the motion. The motion passed unopposed.

Helmut Harnisch, MD-Dr. Harnisch was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. The proposed Consent Order was handed out to the Board for review. Dr. Harnisch is charged with violating TCA 63-6-214(b) (12). Dr. Harnisch prescribed narcotics inappropriately by failing to prescribe in accordance with current pain management theory. Dr. Harnisch failed to consider or utilize non-narcotic medications, failed to generate complete physical evaluations, medical histories or a diagnosis and did not order appropriate referrals to specialists. The proposed Consent Order stated that Dr. Harnisch's license be reprimanded. Dr. Harnisch must complete, within twelve (12) months from effective date of Order, the three day seminar entitled: "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls", which is offered at the Center for Professional Health at Vanderbilt University Medical Center, in Nashville, Tennessee and provide proof of attendance to the Board within twelve (12) months from the effective date of the Order. Dr. Edmonson made a motion

to accept the proposed Consent Order and Dr. Zanolli seconded the motion. Dr. White, Dr. Lovelady and Dr. Ali opposed. The motion carried.

Order of Compliance

William J. Roberts, MD-Dr. Roberts was neither present nor represented by legal counsel. Mr. Robert Kraemer represented the State. The petition for Order of Compliance was handed out to the Board for review. Dr. Roberts was charged with violating TCA 63-6-214 (b) (12) and TCA 63-6-214 (b) (13). On November 14, 1995, Dr. Roberts entered in to an Agreed Order. The Agreed Order stated that Dr. Roberts' license be suspended for a period of six (6) months effective on January 1, 1996. All but thirty (30) days of said suspension is stayed and if Dr. Roberts violates any provision of the Medical Practice Act, the stay shall be lifted. Dr. Roberts' license shall be placed on probation for a period of two (2) years beginning after the non-stayed suspension period is lifted. Dr. Roberts must pay civil penalties in the amount of two thousand five hundred dollars (\$2,500.00) within thirty (30) days from the date of the Order. Dr. Roberts shall, within one (1) year from the date of Order, successfully complete twenty-five (25) hours of AMA approved continuing medical education credits in the areas of pain management, pharmacology, addictionology, headache management, record keeping and arthritis management. Dr. Roberts must agree not to use his DEA certificate for Schedules II, III and IV privileges for a period of one (1) year from date of the Order. Dr. Roberts must agree to and maintain a contract with the Tennessee Medical Foundation's Impaired Physician Program for a period of two years or longer if recommended by the Program. Dr. Roberts must successfully complete Dr. David Dodd's two day seminar on prescribing practices and submit proof of completion of that course to the Board before his probation will be lifted. Mr. Kraemer informed the Board that according to the documents submitted by Lea Phelps, Disciplinary Coordinator, Dr. Roberts has complied with all the provisions of the Agreed Order. Mr. Brown made a motion to accept the Order of Compliance and Dr. White seconded the motion. The motion passed unopposed. Dr. Ali made a motion to adjourn and Dr. Zanolli seconded the motion. The motion passed.

Adjourned at 6:30 p.m.

May 17, 2006

Forum West

Panel: Brown, Cunningham, Mutter, White

9:00 a.m.

Contested Case Hearing

Curtis Buchheit, MD-Dr. Buchheit was present and represented himself.

The case is a continuation from the March 14 and 15, 2006 meeting and will be continued at the next scheduled meeting.

Embassy West

Panel: Zanolli, Lovelady, Edmonson

Contested Case Hearings

Lonnie Litchfield, MD-Dr. Litchfield was present and represented by legal counsel, Mr. Frank Scanlon. Ms. Schean Belton represented the State. The Honorable Marion Wall, Administrative Law Judge presided. The Notice of Charges was handed to the panel for review. Dr. Litchfield is charged with violating TCA 63-6-214 (b) (20). Dr. Litchfield's medical license was suspended by the Oklahoma State Board of Medical Licensure for over prescribing of controlled substances. Ms. Belton and Mr. Scanlon gave their opening statements. Dr. Litchfield was called upon for questioning. Mr. Robert Bower and Mr. Paul Hoover were called as witnesses for Dr. Litchfield. Ms. Belton gave closing statements as well as Mr. Scanlon. The panel deliberated. Dr. Zanolli made a motion to accept the Finding of Facts # 9 through 31 and Dr. Lovelady seconded the motion. The motion carried. Dr. Zanolli made a motion to accept the Conclusions of Law #32 through 38 and Dr. Lovelady seconded the motion. The motion carried. Dr. Edmonson made a motion to place Dr. Litchfield's medical license on probation with eligibility to come before the Board at the end of Oklahoma's probation. Dr. Lovelady seconded the motion. The motion carried unopposed. Dr. Lovelady made a motion to assess \$1,000.00 in court costs and Dr. Zanolli seconded the motion. The motion carried unopposed. The policy statement was read and the reason the action was taken was due to the action taken against the physician by the Oklahoma State Board. For this reason the actions taken were to protect the health, safety and welfare of the citizens of the State of Tennessee. Dr. Zanolli made a motion to accept the policy statement and Dr. Lovelady seconded the motion. The motion carried.

Samuel Westerfield, III, MD-Dr. Westerfield was not present nor represented by legal counsel. Ms. Schean Belton represented the State. The Honorable Marion Wall, Administrative Law Judge presided. Ms. Belton stated that notices were sent out to five addresses and asked the panel for default. Dr. Zanolli made a motion to proceed in default and Dr. Lovelady seconded the motion. The Notice of Charges was handed to the panel for review. Dr. Westerfield is charged with violating TCA 63-6-214 (b) (1) and TCA 63-6-214(b) (2). On or about June 13, 2001, Dr. Westerfield pleaded guilty to twelve (12) felony counts of Illegal Processing of Drug Documents in the State of Ohio. On or about June 27, 2001, the State Medical Board of Ohio immediately suspended Dr. Westerfield's Ohio license. In a Board Order dated effective March 23, 2005, Dr. Westerfield's license to practice in Tennessee was suspended until the September 2005 meeting of the Board. That Order required Dr. Westerfield to personally appear and

present evidence that he has gained TMF advocacy. Dr. Westerfield failed to appear at the September 2005 meeting and has failed to contact TMF as of September 2005. Ms. Belton gave her closing statements. The panel deliberated. Dr. Zanolli made a motion to accept the Finding of Facts # 11 through 18 in the Notice of Charges and Dr. Lovelady seconded the motion. The motion carried. Dr. Zanolli made a motion to accept the Causes of Action #19 through 20 and Dr. Lovelady seconded the motion. The motion carried. Dr. Lovelady made a motion to revoke Dr. Westerfield's medical license and Dr. Zanolli seconded the motion. Dr. Zanolli made a motion to assess cost without civil penalties and Dr. Lovelady seconded the motion. The motion carried. The policy statement was read and the reason the action was taken was due to out of state action taken against the physician. For this reason the actions taken were to protect the health, safety and welfare of the citizens of the State of Tennessee. Dr. Zanolli made a motion to accept the policy statement and Dr. Lovelady seconded the motion. The motion carried unopposed.

Alton Ingram, MD-Judge Wall informed Board members the hearing would be continued until the September board meeting upon the condition that Dr. Ingram not practice in Tennessee.

Adjourned at 3:00 p.m.

Forum East

Panel: Engelhardt, Ali, Eckles

Contested Case Hearing

Young E. Braide, MD-Dr. Braide was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. The Honorable Tom Stovall, Administrative Law Judge presided. Mr. Bozarth stated that a notice was sent to the last current address of Dr. Braide and is asking for default. Dr. Ali made a motion to proceed in default and Dr. Engelhardt seconded the motion. The motion carried. Mr. Bozarth gave his opening statement. Dr. Braide is charged with violating TCA 63-6-214 (b) (1), TCA 63-6-214(b) (2), TCA 63-6-214(b) (4), TCA 63-6-214 (b) (12), TCA 63-6-214(b) (13) and TCA 63-6-214(b) (14). Dr. Braide prescribed controlled substances to forty-eight patients without seeing the patient, recording any information or filling out charts for the patients. Mr. Bozarth stated that Pharmacy audits were conducted on Dr. Braide. Dr. Thomas E. Motley was called upon as an expert witness. The panel presented several questions to Dr. Motley regarding Dr. Braide's patients' records and chart review. Mr. Bozarth gave his closing statement. The panel deliberated. Dr. Ali made a motion to accept the Finding of Facts #11 and 12 with the amendment that Dr. Braide failed to provide adequate follow-up and proper referral. Dr. Engelhardt seconded the motion. The motion carried. Dr. Ali made a motion to accept the Conclusions of Law as presented and Dr. Engelhardt seconded the motion. The motion carried. Dr. Ali made a motion to revoke Dr. Braide's medical license with leave to reapply and Dr. Engelhardt seconded the motion. The motion passed. Dr. Ali made a motion to assess forty-eight (48) Type A

civil penalties in the amount of One Thousand Dollars (\$1,000.00) each, for a total of Forty-eight Thousand Dollars (\$48, 000) and sixty-nine (69) Type B civil penalties in the amount of five Hundred Dollars (\$500.00) each, for a total amount of Thirty Four Thousand, Five Hundred Dollars (\$34,500.00). Dr. Engelhardt seconded the motion. The motion passed. Dr. Ali made a motion to assess the cost of proceedings and Dr. Engelhardt seconded the motion. The motion passed. The policy statement was read and the reasons actions taken were for the health, safety and welfare of the citizens of the State of Tennessee. Dr. Ali made a motion to accept the policy statement and Dr. Engelhardt seconded the motion. The motion passed.

Adjourned at 6:00 p.m.

Dr. Allen S. Edmonson

Date